

RESOLUTION NO. 2018-5

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CALLING ON GOVERNOR RICK SCOTT, PRESIDENT DONALD TRUMP AND NATIONAL AND STATE LEGISLATORS TO RECOGNIZE THAT ASSAULT WEAPONS CAUSE DEATHS ASSUREDLY AND ON A MASS SCALE, AND TO REDUCE GUN VIOLENCE IN AMERICA BY BANNING ASSAULT WEAPONS AND HIGH-CAPACITY AMMUNITION MAGAZINES, AND BY TAKING OTHER PRACTICAL AND NECESSARY STEPS CONSISTENT WITH CONSTITUTIONAL PRINCIPLES TO PRIORITIZE PROTECTING PEOPLE FROM GUN VIOLENCE; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an increase in the amount of hate groups, international and lone wolf domestic terrorism, underfunded community mental health programs, and easy access to military grade, high capacity magazine assault weapons have created circumstances which have led to an unprecedented number of mass shootings in American communities in recent years; and

WHEREAS, on February 14, 2018, 17 people students, teachers, and coaches were shot to death, and 14 others wounded by a teenage shooter who lawfully purchased an assault rifle, at Marjory Stoneman Douglas High School in Parkland, Florida; and

WHEREAS, on November 5, 2017, 26 people were shot to death, and 20 others injured by a shooter, at the First Baptist Church in Sutherland Springs, Texas; and

WHEREAS, on October 1, 2017, a shooter with an arsenal of 23 weapons and accessories, shot and killed 58 people and injured more than 500, at the Harvest Music Festival in Las Vegas, Nevada; and

WHEREAS, on June 12, 2016, a shooter using a legally purchased semi-automatic rifle, shot and killed 49 people and injured at least 50 people at the Pulse Nightclub in Orlando, Florida; and

WHEREAS, on December 14, 2012, a shooter using two semi-automatic handguns killed 27 people, including 20 children at Sandy Hook Elementary School in Newtown Connecticut; and

WHEREAS, on October 21, 2012, a shooter using a semi-automatic handgun, killed his estranged wife and 2 others in Milwaukee, Wisconsin; and though a restraining order had been issued against him making him a prohibited person under federal law – the shooter was able to avoid a background check by purchasing the gun from a private seller through armslist.com; and

WHEREAS, on August 5, 2012, a shooter using a semi-automatic handgun killed 6 people and injured 3 others at a Sikh temple in Oak Creek, Wisconsin; and

WHEREAS, on July 20, 2012, a shooter using a semi-automatic rifle and other guns killed 12 people and injured at least 58 others in a movie theater in Aurora, Colorado, using some of the thousands of rounds of ammunition that he had recently purchased online without a background check; and

WHEREAS, on January 8, 2011, a shooter with a reported history of drug abuse and serious mental illness who should have been in the National Instant Criminal Background Check System (NICS) database but was not, killed 6 people in Tucson, Arizona; and

WHEREAS, on April 16, 2007, a shooter killed 32 people at Virginia Tech in Blacksburg, Virginia with guns that were legally purchased because records of his mental health status were missing from the NICS; and

WHEREAS, an AR-15-style rifle was used in the mass shootings in Newton, Connecticut; Aurora, Colorado; San Bernardino, California; Las Vegas, Nevada; Sutherland Springs, Texas; and Parkland, Florida; and

WHEREAS, despite children and teachers being murdered at school and the general proliferation of horrific gun-related deaths, National and State leaders continue to fail to act to implement sensible gun law reforms that are supported by a majority of the nation; and

WHEREAS, under federal law, licensed gun dealers are mandated to conduct NICS checks before proceeding with a sale, but this requirement does not apply to so-called private sellers who are present in large numbers at gun shows and sell guns over the internet; and

WHEREAS, more than 12,000 Americans are murdered with guns every year, and too many of these crimes are committed by individuals who are barred from purchasing or possessing guns under federal law; and

WHEREAS, other tragedies including the 1999 Columbine High School shooting in Littleton, Colorado, the 2010 attack on law enforcement at the Pentagon in Arlington County, Virginia, and the 2012 mass shooting at a Pittsburgh, Pennsylvania psychiatric clinic were perpetrated by individuals who obtained guns through unregulated private sales, with no paperwork required and no questions asked; and

WHEREAS, the Fix Gun Checks Act was introduced in the U.S. Congress, and this legislation would have addressed the two major flaws in the nation's gun background check system by improving compliance with federal record reporting requirements, and by requiring background checks for all U.S. gun sales; and

WHEREAS, the Village is a strong advocate for common-sense policies that keep guns out of dangerous hands while respecting the rights of law-abiding gun owners, and strongly

believes that Congress and state governments should ban assault weapons and high-capacity ammunition MAGAZINE, and abandon the ludicrous idea of protecting schools by arming teachers, and take action to close deadly gaps in the NICS, among other responsive actions; and

WHEREAS, more than 50 national organizations support closing gaps in the gun background check database and requiring a background check for all gun sales, including the U.S. Conference of Mayors, National Urban League, National Association for the Advancement of Colored People, the National Coalition Against Domestic Violence, the International Association of Chiefs of Police, the Major Cities Chiefs Association, and the Police Executive Research Forum; and

WHEREAS, Red Flag laws, which have been increasingly adopted by states, allow family members and law enforcement to seek an Extreme Risk Protection Order, a court order temporarily restricting a person's access to guns when they pose a danger to self or others; and

WHEREAS, currently pending in the Florida Legislature is House Bill 231 and Senate Bill 530 which would implement a Red Flag Law, and had these bills been previously passed and signed into law, there is a high likelihood the Parkland massacre could have been averted and those loved ones saved; and

WHEREAS, with some exceptions, federal law prohibits the possession of a handgun or handgun ammunition by any person under the age of 18 but does not set a minimum age for the possession of long guns or long gun ammunition; and

WHEREAS, under Florida law, the purchase of a long gun is allowed for a person under 21 years of age; and

WHEREAS, in order to restrict such purchase and/or possession of a long gun, high capacity magazines and ammunition, the Florida legislature would need to amend Sections 790.17(2), 790.18, and 790.22(3), (5), Florida Statutes; and

WHEREAS, in response to mass shootings resulting in the massacre of students, teachers and others, Maryland, Connecticut, and New York passed similar prohibitions on sales of assault weapons and large capacity magazines, which have been upheld as constitutional by Federal courts; and

WHEREAS, presently pending in Florida is similar legislation, Senate Bill 196 and House Bill 219 which would prohibit “the sale or transfer of an assault weapon or large-capacity magazine; specifying circumstances in which the manufacture or transportation of assault weapons or large-capacity magazines is not prohibited; providing enhanced criminal penalties for certain offenses when committed with an assault weapon or large-capacity magazine, etc.,” and

WHEREAS, following the lead of other states, and having had Federal Courts consistently hold that such restrictions are constitutional, it is time to implement such restrictions; and

WHEREAS, in 2011, the Florida Legislature passed, and Governor Scott signed into law, Chapter 2011-109, Laws of Florida, amending Section 790.33, Florida Statutes, allowing elected or appointed local officials who pass an ordinance or cause an ordinance, administrative rule or regulation to be enforced which impinges on the exclusive authority of the Florida Legislature to regulate firearms and ammunition to be assessed court fines of up to \$5,000 as well as be subject to removal from office by the Governor, without due process; and

WHEREAS, local governments have a duty to protect their residents, visitors, tourists, and businesses and that such duty should not be infringed upon by State government; and

WHEREAS, the Village Council urgently requests the Governor and the Florida Legislature to address this deficit in law by enacting legislation that would allow municipalities the ability to address these public health, safety and welfare items by enacting local legislation without fear of removal from office, in accordance with the unique local characteristics of a community and with due respect to the risk to public; and

WHEREAS, the Village Council deems it to be in the best interest of the residents of the Village to call on the State of Florida Governor Rick Scott, President Donald Trump, and the lawmakers in Congress and the Florida Statehouse to reduce gun violence in America and help prevent future shootings by taking action as follows.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA AS FOLLOWS:

Section 1. **Recitals Adopted.** Each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. **Ban Assault Weapons.** That the Village Council supports an immediate ban on assault weapons, high-capacity ammunition magazines, bump stocks and other devices that increase a weapon's rate of fire or ammunition capacity.

Section 3. **Supporting the Fix Gun Checks Act.** That the Village Council supports federal legislation that would require a background check for every firearm sale whether the legislation is enacted by passage of the Fix Gun Checks Act in the United States Congress or some other legislation.

Section 4. Opposition to Authorizing Armed Educators. That the Village Council opposes legislation that would authorize to have armed teachers in classrooms.

Section 5. Supporting Federal Gun Buyback Program. That the Village Council supports federal legislation to institute a federal gun buyback program.

Section 6. Supporting the Red Flag Law. That the Village Council urges the Florida legislature to immediately pass House Bill 231/Senate Bill 530, popularly described as a “Red Flag Law,” to protect our community from those who are identifiable as a threat to safety and security.

Section 7. Urging to Raise the Minimum Age for Gun Purchase. That the Village Council urges immediate passage of legislation that would remove military-style weapons and high-capacity magazines from our community, especially our schools, and that would increase the minimum age to purchase and possess guns, including long guns and ammunition, from age 18 to age 21.

Section 8. Urging to Repeal Section 790.33, Florida Statutes. That the Village Council urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Section 790.33, Florida Statutes.

Section 9. Urging Legislative Action during 2018 Session. That the Village Council urges Florida Governor Rick Scott to take action to pass gun reform, even if it means extending the 2018 legislative session, to:

- a. Raise the minimum age to allow the purchase of guns and ammunition to 21;
- b. Eliminate the loopholes in the private transfer of weapons and require full background checks for all sales and transfers of firearms;
- c. Repeal the penalties in Section 790.33(3), Florida Statutes;

- d. Enact legislation regarding a Red Flag Law to allow Extreme Risk Protection Orders such as those proposed in House Bill 231 and Senate Bill 530; and
- e. Enact the Gun Safety legislation set forth in Senate Bill 196 and House Bill 219 to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

Section 10. Transmittal. That the Village Clerk is hereby directed to distribute this Resolution to President Donald Trump, Governor Rick Scott, the United States Congressional Delegations from Florida, the Miami-Dade County Legislative Delegation, and the Miami-Dade County League of Cities.

Section 11. Effective Date. That this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 27th day of February, 2018.


MAYOR MAYRA PEÑA LINDSAY

ATTEST:


JENNIFER MEDINA, CMC
VILLAGE CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY


VILLAGE ATTORNEY